



ARKANSAS JUDICIARY

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## Rule 70. Judgment For Specific Acts; Vesting Title.

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the jurisdiction of the court, in lieu of directing a conveyance thereof, it may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

Reporter's Notes to Rule 70: - 1. With the exception of minor wording changes to adapt FRCP 70 to state practice, Rule 70 is substantially the same as the Federal Rule. This rule applies only after judgment has been entered, *DeBeers Consol. Mines, Ltd. v. United States*, 325 U.S. 212, 65 S. Ct. 1130 (1945), and gives the trial court power to deal with parties who refuse to obey and comply with orders to do specific acts. The acts contemplated by this rule have traditionally been ordered by equity courts and it is likely that such courts will have more occasion to exercise the authority conferred by this rule. The rule is not limited, however, to equity cases and under proper circumstances, law courts may well exercise the authority conferred therein.

2. This rule does not purport to grant additional authority to a trial court to affect title to property outside the jurisdiction of the court. It simply recognizes the traditional jurisdictional limits of courts and in no way attempts to enlarge such limits.

3. This rule does not affect Ark. Stat. Ann. 29-128 (Repl. 1962) which requires that any decree which orders a conveyance or passing of title to real property be recorded in the county wherein the real property is located within one year from the entry of the decree.

4. This rule recognizes the inherent power of the court to adjudge a party in contempt for disobedience to its order and judgment. This power has also been recognized in Ark. Stat. Ann. 34-901(3) (Repl. 1962).

### **Associated Court Rules:**

Rules of Civil Procedure

### **Group Title:**

VIII. Counsel; Provisional and Final Remedies; Suits in Forma Pauperis

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